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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,521	02/21/2002	Luciano Mondani	25-335	4703

23117 7590 06/08/2004

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EXAMINER

FOX, CHARLES A

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 06/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/078,521	Applicant(s) MONDANI ET AL.	
	Examiner Charles A. Fox	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20040212.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20040212</u> . | 6) <input type="checkbox"/> Other: _____ |

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This application has been reassigned to Examiner Charles A. Fox.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Bostad et al.

Bostad et al. US 5,368,435 disclose a sideshift assembly for a forklift comprising:

a carriage comprising a pair of vertical members (16) that are horizontally spaced;

a frame support member (33) secured transversely to said vertical members;

wherein said vertical members are movably secured in the mast of said forklift;

a side shift frame comprising an upper cross member (34), a lower cross member (28) and at least 2 side members (30,32);

said upper cross member having a lower contact surface for sliding engagement with said frame support member (33);

side shift operator means (52) for causing lateral movement of said frame, wherein said means is located in a portion of said frame support member.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bostad et al. as applied to claim 1 above, and further in view of Bolzoni. In regards to claims 2,4 and 7 Bostad et al. teach the limitations of claim 1 as above, they do not teach the device as having a fork position device. Bolzoni DE 198 05 790 A1 teaches a fork positioner for a forklift truck, said positioner comprising:

first and second shoe members (14) adapted to slide horizontally along a sliding surface (33) of a side shift carriage;

each of said shoes adapted to receive a shank portion of a fork, said contact portion of said shoe being coplanar with a front face of a side shift frame;

said positioner adapted to move said shoes relative to each other such that the shoes are equidistant from the centerline of said side shift frame at all times. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Bostad et al. with a fork positioner as taught by Bolzoni in order to allow an operator to change the spacing of the forks from the operators seat while maintaining the operators view of the forks.

In regards to claim 3 Bostad et al. further teach that said side shift frame is rectangular.

In regards to claim 5 Bostad et al. also teach that the upper surface of the support member is convex and the lower surface of the upper cross member is concave, wherein said surfaces are slidably engaged with each other.

In regards to claim 6 wherein said upper cross member defines a planer portion overhanging a front side of said support member.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bostad et al. and Bolzoni as applied to claim 2 above, and further in view of German patent 200 20 292 U1. Bostad et al. and Bolzoni teach the limitations of claim 2 as above, they do not teach the side shift being driven by a pair of hydraulic cylinders. German patent '292 teaches a side shift carriage that uses two single action cylinder to move a side shift frame in one of two direction depending upon which cylinder is engaged, wherein each of the cylinders are sealed to prevent the escape of hydraulic fluid around the piston. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Bostad et al. and Bolzoni with the cylinders as taught by the German '292 patent in order to simplify the hydraulic system by using single action cylinders to move the side shift frame.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bostad et al, Bolzoni and German '292 as applied to claim 8 above, and further in view of French Patent 76 02832. Bostad et al, Bolzoni and German '292 teach the limitations of claim 8 as above, they do not teach pads between the cylinders and the frame. French patent '832 teaches placing piston pads between a hydraulic cylinder and a side shift frame member. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Bostad et al, Bolzoni and German '292 with piston pads as taught by French patent '832 to spread the load applied to the frame over a larger area.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bostad et al, Bolzoni and German '292 as applied to claim 8 above, and further in view of Sorlie. In regards to claim 11 Bostad et al, Bolzoni and German '292 teach the limitations of claim 8 as above, Bolzoni further teaches the forks are maintained an equidistant length from the center line of the side shift carriage. They do not teach any particular type of drive system for the fork positioner. Sorlie US 5,190,436 teaches using hydraulic cylinders to position forks within a side shift frame. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Bostad et al, Bolzoni and German '292 with the hydraulic cylinder taught by Sorlie in order to drive the fork positioner using a well known drive means as suggested by Bolzoni.

In regards to claims 12 and 13 Bolzoni further teaches that said center fork positioner is comprised of an upper chain and a lower chain forming a chain loop, wherein said chain loop is used to move said first and second shoes at the same time.

Claims 14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bostad et al. in view of Shinoda et al. Regarding claim 1 Bostad et al teach a sideshift assembly for a forklift comprising:

- a carriage comprising a pair of vertical members (16) that are horizontally spaced;

- a frame support member (33) secured transversely to said vertical members;

- wherein said vertical members are movably secured in the mast of said forklift;

a side shift frame comprising an upper cross member (34), a lower cross member (28) and at least 2 side members (30,32);

said upper cross member having a lower contact surface for sliding engagement with said frame support member (33);

side shift operator means (52) for causing lateral movement of said frame, wherein said means is located in a portion of said frame support member. They do not teach the side shift frame as having an upper cross member that protects the side shift cylinder by covering it. Shinoda et al. teach a side shift frame comprising :

an upper plate (92a), a lower plate (92b);

two side connecting members (93) for forming a side shift frame with said plates; wherein said upper plate is made so as to protect the side shift cylinder (90).

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Bostad et al. with a protective plate as taught by Shinoda et al. in order to keep cargo from damaging the side shift cylinder during its movement by the forklift.

In regards to claim 15 Bostad et al. also teach that the upper surface of the support member is convex and the lower surface of the upper cross member is concave, wherein said surfaces are slidably engaged with each other.

In regards to claims 16 and 17 Bostad et al. further teach that said side shift frame is a quadrilateral shape with parallel side forming a rectangle.

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bostad et al. and Shinoda et al. as applied to claim 16 above, and

further in view of German patent 200 20 292 U1. Bostad et al. and Shinoda et al. teach the limitations of claim 16 as above, they do not teach the side shift being driven by a pair of hydraulic cylinders. German patent '292 teaches a side shift carriage that uses two single action cylinder to move a side shift frame in one of two direction depending upon which cylinder is engaged, wherein each of the cylinders are sealed to prevent the escape of hydraulic fluid around the piston. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Bostad et al. and Shinoda et al. with the cylinders as taught by the German '292 patent in order to simplify the hydraulic system by using single action cylinders to move the side shift frame.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bostad et al, Shinoda et al. and German '292 as applied to claim 8 above, and further in view of French Patent 76 02832. Bostad et al, Shinoda et al. and German '292 teach the limitations of claim 18 as above, they do not teach pads between the cylinders and the frame. French patent '832 teaches placing piston pads between a hydraulic cylinder and a side shift frame member. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Bostad et al, Shinoda et al. and German '292 with piston pads as taught by French patent '832 to spread the load applied to the frame over a larger area.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bostad et al. in view of Bolzoni. Bostad et al. teach a sideshift assembly for a forklift comprising:

- a carriage comprising a pair of vertical members (16) that are horizontally spaced;

- a frame support member (33) secured transversely to said vertical members;

- wherein said vertical members are movably secured in the mast of said forklift;

- a side shift frame comprising an upper cross member (34), a lower cross member (28) and at least 2 side members (30,32);

- said upper cross member having a lower contact surface for sliding engagement with said frame support member (33);

- side shift operator means (52) for causing lateral movement of said frame, wherein said means is located in a portion of said frame support member. They do not teach the device as having a fork position device. Bolzoni teaches a fork positioner for a forklift truck, said positioner comprising:

- first and second shoe members (14) adapted to slide horizontally along a sliding surface (33) of a side shift carriage;

- each of said shoes adapted to receive a shank portion of a fork, said contact portion of said shoe being coplanar with a front face of a side shift frame;

- said positioner adapted to move said shoes relative to each other such that the shoes are equidistant from the centerline of said side shift frame at all times. It would

have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Bostad et al. with a fork positioner as taught by Bolzoni in order to allow an operator to change the spacing of the forks from the operators seat while maintaining the operators view of the forks.

Response to Amendment

The amendments filed on February 12, 2004 have been entered into the record.

Response to Arguments

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Krett 1966, Reeves 1983, Weinert et al. 1992, Hamlik 1998, prentice 2002.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 703-605-4294. The examiner can normally be reached between 7:00-5:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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5/29/04


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